

SENATE BILL NO. 97

INTRODUCED BY BARKUS

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DISPOSITION OF SPECIALIZED INTERESTS IN STATE LANDS BY RESTRICTING ANY OR ALL RIGHTS TO CONSTRUCT IMPROVEMENTS UPON THE LAND OR TO SUBSTANTIALLY ALTER THE NATURAL CHARACTER OF THE LAND EXCEPT AS THESE RIGHTS ARE EXPRESSLY RESERVED IN THE INSTRUMENTS INDICATING THE RESTRICTION; AMENDING SECTIONS 77-2-301 AND 77-2-343, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-2-301, MCA, is amended to read:

"77-2-301. Sales of state land under board control. The board may decide when sales of state land are to be held, what type of property interests may be conveyed, and what state lands are to be offered for sale, subject to the limitations of this title, as the best interests of the state may appear to require."

Section 2. Section 77-2-343, MCA, is amended to read:

"77-2-343. Patent provisions -- conveyance of property interests. (1) ~~Such~~ The deed or patent shall ~~contain the reservation of~~ must state that it is subject to prior existing reservations, including easements for rights-of-way ~~to~~ held by the United States; and reservation of all minerals in the land as provided in 77-2-304, ~~and all other reservations to which the particular land conveyed is subject~~ and must describe the extent of the property interests or rights conveyed to the grantee.

(2) If the land is located within the boundaries of a federal irrigation project, the patent ~~shall~~ must contain a lien clause substantially in the following form: The land ~~hereby~~ conveyed is located within the boundaries of a federal irrigation project and is subject to all liens ~~which that~~ the United States may have ~~thereon~~ on the land by reason of its being located ~~under such~~ within the irrigation project.

(3) This section does not require any reservation in a patent ~~which that~~ was not an express or implied reservation in the certificate of purchase pursuant to which the patent is issued. The statutes in effect when ~~such~~ the certificate of purchase was issued ~~must~~ govern.

1 (4) (a) Except as provided in subsection (4)(b), the board may permanently convey less than fee simple
2 property interests in state land FOR THE PURPOSE OF RESTRICTING ANY OR ALL RIGHTS TO CONSTRUCT IMPROVEMENTS
3 UPON THE LAND OR TO SUBSTANTIALLY ALTER THE NATURAL CHARACTER OF THE LAND EXCEPT AS THESE RIGHTS ARE
4 EXPRESSLY RESERVED IN THE INSTRUMENTS INDICATING THE RESTRICTION. The board, in compliance with and as
5 limited by other provisions of state law, may convey ~~partial, limited, fractional, or undivided~~ property interests
6 in TO RESTRICT ACTIVITIES ON state lands as the board may determine is in the best interests of the affected state
7 trust beneficiary.

8 (b) A conveyance under subsection (4)(a) MAY RESTRICT RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL USES
9 BUT may not affect the state's ability to MANAGE, develop, or lease state land for OTHER PURPOSES, ~~OTHER THAN~~
10 RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL, INCLUDING BUT NOT LIMITED TO RECREATION, grazing, agricultural, or
11 timber purposes or to retain state water and mineral rights.

12 (c) The conveyance of any property interest in state lands for a term of years must be in accordance
13 with the provisions of Title 77 relating to leases or licenses.

14 (D) BEFORE THE BOARD APPROVES THE RESTRICTION OF RIGHTS TO CONSTRUCT IMPROVEMENTS UPON THE
15 LAND OR TO SUBSTANTIALLY ALTER THE NATURAL CHARACTER OF THE LAND, THE DEPARTMENT SHALL NOTIFY ALL
16 PERSONS HOLDING A LICENSE OR LEASE ON THE PARCEL.

17 (E) THE GRANTEE MUST BE CONSULTED PURSUANT TO 75-1-201 AND 75-1-208 PRIOR TO THE FUTURE
18 MANAGEMENT OF THE LAND ENCUMBERED BY THE CONVEYANCE.

19 (F) EACH CONVEYANCE DOCUMENT MUST CONTAIN PROVISIONS NECESSARY TO ENSURE THAT THE GRANTEE'S
20 RIGHTS ARE RESTRICTED."

21
22 NEW SECTION. Section 3. Severability. If a part of [this act] is invalid, all valid parts that are
23 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
24 the part remains in effect in all valid applications that are severable from the invalid applications.

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26 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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